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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPEAL BRIEF FOR THE APPELLANT

Ex parte Janne Markus MUHONEN

**METHOD AND SYSTEM FOR ESTABLISHING AN EMERGENCY
CALL IN A COMMUNICATION SYSTEM**

Serial No. 10/550,074

Appeal No.:

Group Art Unit: 2617

Enclosed is a check in the amount of Five Hundred Forty Dollars (\$540.00) to cover the official fee for this Appeal Brief. In the event that there may be any fees due with respect to the filing of this paper, please charge Deposit Account No. 50-2222.

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Appeal Brief



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re the Appellant:

Janne Markus MUHONEN

Appeal No.:

Serial Number: 10/550,074

Group Art Unit: 2617

Filed: December 5, 2005

Examiner: Tangelia T. CHAMBERS

For: METHOD AND SYSTEM FOR ESTABLISHING AN EMERGENCY CALL IN A
COMMUNICATION SYSTEM

BRIEF ON APPEAL

February 23, 2009

I. INTRODUCTION

This is an appeal from the final rejection set forth in an Official Action dated June 23, 2008, finally rejecting claims 17-22 and 31-35, all of the claims pending in this application. Claims 17-19, 21-22, 31-32, and 34-35 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. 2003/0186709 (filed Dec. 9, 2002) ("Rhodes"). Claims 20 and 33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rhodes, in view of U.S. Patent Publication No. 2004/0259566 A1 (filed Aug. 28, 2002) ("Maanoja"). A Request for Reconsideration was timely filed on September 23, 2008. An Advisory Action was mailed on October 15, 2008, indicating that the amendments to the claims presented in the Request for Reconsideration would be entered for purposes of appeal, but did not place the claims in condition for allowance. A Notice of Appeal was timely filed on October 22, 2008, with petition for Extension of

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Time. This Appeal Brief is also timely filed.

II. REAL PARTY IN INTEREST

The real parties in interest in this application are Nokia Corporation of Espoo, Finland.

III. STATEMENT OF RELATED APPEALS AND INTERFERENCES

There are no known related appeals and/or interferences which will directly effect or be directly effected by or have a bearing on the Board's decision in this appeal.

IV. STATUS OF CLAIMS

Claims 17-22 and 31-35, all of the claims pending in the present application, are the subject of this appeal.

V. STATUS OF AMENDMENTS

A final Office Action dated June 23, 2008, rejected all of pending claims 17-22 and 31-35. On September 23, 2008, Applicant filed a Request for Consideration amending claims 17, 21-22, and 34. An Advisory Action was mailed on October 15, 2008, indicating that the amendments to the claims presented in the Request for Reconsideration did not place the claims in condition for allowance, but would be entered for purposes of appeal. Accordingly, the issues of this appeal are presented in the context of the claims as amended

in the Request for Consideration filed on September 23, 2008.

VI. SUMMARY OF CLAIMED SUBJECT MATTER

Claim 17, upon which claims 18-20 are dependent, is directed to a method that comprises establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call (Muhonen, page 15, line 18, to page 18, line 10). The claimed establishing comprises receiving an emergency call request, determining a first estimate of a position of said user's equipment within said radio coverage area, and interrupting a call establishment of the emergency call (Muhonen, page 15, line 18, to page 16, line 15). The establishing also comprises using a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and, when at least one answering point has been selected, resuming said call establishment, determining a second, more accurate, position estimate, and sending the second position estimate to the selected answering point (Muhonen, page 16, line 15, to page 18, line 10).

Claim 21, upon which claims 31-33 are dependent, is directed to an apparatus that comprises a call establisher configured to establish an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call (Muhonen, page 15, line 18, to page 18, line 10). The call establisher is configured to receive an emergency call request, determine a first estimate of a position of

said user's equipment within said radio coverage area, and interrupt a call establishment of the emergency call (Muhonen, page 15, line 18, to page 16, line 15). The establisher is also configured to use a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and, when at least one answering point has been selected, resume said call establishment, determine a second, more accurate, position estimate, and send the second position estimate to the selected answering point (Muhonen, page 16, line 15, to page 18, line 10).

Claim 22 is directed to a system that comprises a base controller configured to control a base transceiver that provides a radio coverage area, a switching centre configured to receive an emergency call request, a location centre configured to determine a first estimate of the position of a user's equipment within a coverage area, and a control point configured to select which of at least two answering points the call is established with based on said first position estimate (Muhonen, page 15, line 18, to page 18, line 10). The call establishment is interrupted, and, when at least one answering point has been selected, the switching centre is configured to resume said call establishment, and a second, more accurate, position estimate is determined and sent to the at least one answering point. (Muhonen, page 16, line 15, to page 18, line 10).

Claim 34 is directed to an apparatus that comprises establishing means for establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call (Muhonen, page 15,

line 18, to page 18, line 10). The establishing means comprises means for receiving an emergency call request, means for determining a first estimate of a position of said user's equipment within said radio coverage area, and means for interrupting a call establishment of the emergency call (Muhonen, page 15, line 18, to page 18, line 10). The establishing means also comprises means for using a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and, when at least one answering point has been selected, means for resuming said call establishment, means for determining a second, more accurate, position estimate, and means for sending the second position estimate to the selected answering point (Muhonen, page 16, line 15, to page 18, line 10).

Claim 35 is directed to a computer program embodied on a computer-readable medium and configured to control a processor to perform operations that comprise establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call (Muhonen, page 15, line 18, to page 18, line 10). The establishing comprises receiving an emergency call request, determining a first estimate of a position of said user's equipment within said radio coverage area, and interrupting a call establishment of the emergency call (Muhonen, page 15, line 18, to page 18, line 10). Additionally, the establishing comprises using the control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point

has been selected, resuming said call establishment, determining a second, more accurate, position estimate, and sending the second position estimate to the selected answering point (Muhonen, page 16, line 15, to page 18, line 10).

VII. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal are as follows:

A. The rejection of claims 17-19, 21-22, 31-32, and 34-35 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2003/0186709 A1 (filed Dec. 9, 2002) (“Rhodes”); and

B. The rejection of claims 20 and 33 under 35 U.S.C. §103(a) as being unpatentable over Rhodes, in view of U.S. Patent Publication No. 2004/0259566 A1 (filed Aug. 28, 2002) (“Maanoja”).

For completeness, it should be noted that the final Office Action mailed on June 23, 2008, also rejected claims 17, 19, 21-22, 32, and 34 under the second paragraph of 35 U.S.C. § 112. In support of this rejection the Office Action indicated that certain features within these claims were recited without a proper antecedent basis. For example, claims 17, 19, 21, 32, and 34 recited “the control point” without first reciting “a control point.” In the Request for Reconsideration filed on September 23, 2008, claims 17, 19, 21, 32, and 34 were amended in a manner that further clarifies the claimed invention and resolves the rejection under the second paragraph of 35 U.S.C. § 112. Therefore, as the amendments

filed in the Request for Reconsideration have been entered for purposes of Appeal, the rejection under 35 U.S.C. § 112 is moot.

VIII. APPELLANT'S ARGUMENTS

Appellant respectfully submits that each of the pending claims 17-22 and 31-35 recite subject matter that is not taught, disclosed, or suggested by the cited references. Each of the claims is being argued separately, and, thus, each of the claims stands or falls alone.

A. Claims 17-19, 21-22, 31-32, and 34-35 are not anticipated by Rhodes

Claims 17-19, 21-22, 31-32, and 34-35 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Publication No. 2003/0186709 A1 (filed Dec. 9, 2002) ("Rhodes"). Appellant respectfully submits that Rhodes fails to disclose or suggest all the limitations of any of the rejected claims. Therefore, it is respectfully requested that the rejection of claims be reversed and that the claims be allowed.

1. Claim 17

Claim 17, upon which claims 18-20 are dependent, is directed to a method that comprises establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call. The claimed establishing comprises receiving an emergency call request, determining a first estimate of a position of said user's equipment within said radio coverage area, and interrupting a call establishment of the emergency call. The establishing also comprises

using a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and, when at least one answering point has been selected, resuming said call establishment, determining a second, more accurate, position estimate, and sending the second position estimate to the selected answering point.

Appellant respectfully submits that claim 17 recites subject matter that is neither disclose nor suggested by Rhodes.

Rhodes discloses public safety access point (PSAP) selection for Enhanced 911 (E911) wireless callers in a global system for mobile communications (GSM) type system. In Rhodes, public safety access points are selected in a wireless network for E911 calls based on emergency services routing digit (ESRD) substitution when emergency service routing keys (ESRK) are not being used. Initially, ESRKs, ESRDs, or emergency service routing values (ESRV) are obtained and managed for each PSAP in a particular carrier's area. Then, it is determined whether GSM location information is reported in a timely manner (e.g., within one or two seconds) before committing to a default selection of a particular PSAP based on information such as the location of a serving cell site.

However, Appellant respectfully submits that Rhodes fails to disclose or suggest all the limitations of claim 17. For example, Rhodes fails to disclose or suggest, at least, "determining a first estimate of a position of said user's equipment within said radio coverage area...using a control point to select, based on said first position estimate, which

one of said at least two answering points the call is to be established with, and when at least one answering point has been selected...determining a second, more accurate, position estimate,” as recited in claim 17. Accordingly, Appellant respectfully submits that claim 17 is not anticipated by Rhodes under 35 U.S.C. § 102(e) because Rhodes fails to disclose or suggest at least these limitations.

The Office Action took the position that the routing processes disclosed in Rhodes anticipates the foregoing limitations, in addition to the other limitations recited in claim 17. However, a review of Rhodes’ routing process clearly indicates that this is not the case. Indeed, the routing process of Rhodes does not, and could not, account for the limitations of claim 17.

For example, in paragraphs [0057]-[0059] and Figure 10, Rhodes discloses a routing process where a call may be routed based upon the reception of a SubLocRep location estimate, a cell identity, or a default PSAP. In particular, when the system receives an IAM message of an E911 call, the system initiates a timer (statistically pre-configured timer interval). If a SubLocRep location estimate is not received before the timer expires, then the system routes the call to a PSAP assigned to the cell identity of the cell serving the caller. However, if the SubLocRep location estimate is received before the timer expires, then the call is routed to a PSAP corresponding to the SubLocRep location estimate. In an alternative scenario, where the system has neither the cell identity nor a location estimate, then the call is routed to a default PSAP.

Accordingly, Rhodes fails to disclose or suggest, for example, the features associated with “first position estimate” and “second, more accurate, position estimate,” as recited in claim 17. As discussed above, Rhodes discloses that if a SubLocRep location estimate is not received then the call is routed based on a cell identity or a default PSAP. Consequently, if the SubLocRep location estimate is said to correspond to the claimed “second, more accurate, position estimate” of claim 17, then Rhodes fails to disclose or suggest, at least, the claimed “first position estimate” because a cell identity and a default PSAP are not location estimates of “said user’s equipment” as recited in the claim. Additionally, if the SubLocRep location estimate is said to correspond to the claimed “first position estimate,” then Rhodes fails to disclose or suggest, at least, the claimed “second, more accurate, position estimate” because a cell identity and a default PSAP are not location estimates of “said user’s equipment,” nor are they “more accurate” than the disclosed SubLocRep location.

Moreover, even if the cell site identity of Rhodes were somehow construed to be a position estimate, which it most certainly is not, Rhodes would still fail to disclose or suggest the claimed “first position estimate.” The “first position estimate” of claim 17 as being “a position of said user’s equipment within said radio coverage area.” Consequently, the cell site identity of Rhodes is not comparable to the “first position estimate” because a cell site identity is known to merely identify a cell without regard to an estimated location of a device “within” the coverage area of the cell. Additionally, in paragraph [0058],

Rhodes discloses that when a call is routed based on the identity of the cell, the call is routed to “the PSAP assigned to the cell site.” Consequently, when the Rhodes routing system routes a call to a PSAP based on the identity of a cell, the Rhodes routing system does not, and could not, use the cell identity to select “which one of said at least two answering points the call is to be established with” because the cell only corresponds to one PSAP. Instead, as discussed above, Rhodes merely routes the call to the PSAP that is “assigned to the cell site.” Therefore, Rhodes fails to disclose the “first position estimate” as recited in claim 17.

In light of the above, it is clear the Rhodes fails to disclose or suggest, all the limitations of claim 17. Indeed, Rhodes fails to disclose or suggest, at least, “determining a first estimate of a position of said user’s equipment within said radio coverage area...using the control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected...determining a second, more accurate, position estimate,” as recited, in part, in claim 17. As such, Appellant respectfully submits that claim 17 is not anticipated by Rhodes under 35 U.S.C. § 102(e). Accordingly, it is respectfully requested that this rejection be reversed and this claim allowed.

2. Claim 18

Claim 18 is dependent upon claim 17, and recites additional limitations. Thus, claim 18 is patentable at least for the reasons claim 17 is patentable, and further, because it recites additional limitations. Accordingly, it is respectfully requested that this rejection be

reversed and this claim allowed.

3. Claim 19

Claim 19 is dependent upon claim 17, and recites additional limitations. Thus, claim 19 is patentable at least for the reasons claim 17 is patentable, and further, because it recites additional limitations. Accordingly, it is respectfully requested that this rejection be reversed and this claim allowed.

4. Claim 21

Claim 21, upon which claims 31-33 are dependent, is directed to an apparatus that comprises a call establisher configured to establish an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call. The call establisher is configured to receive an emergency call request, determine a first estimate of a position of said user's equipment within said radio coverage area, and interrupt a call establishment of the emergency call. The establisher is also configured to use a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and, when at least one answering point has been selected, resume said call establishment, determine a second, more accurate, position estimate, and send the second position estimate to the selected answering point.

Appellant respectfully submits that claim 21 recites subject matter that is neither disclose nor suggested by Rhodes.

Rhodes discloses public safety access point (PSAP) selection for Enhanced 911 (E911) wireless callers in a global system for mobile communications (GSM) type system. In Rhodes, public safety access points are selected in a wireless network for E911 calls based on emergency services routing digit (ESRD) substitution when emergency service routing keys (ESRK) are not being used. Initially, ESRKs, ESRDs, or emergency service routing values (ESRV) are obtained and managed for each PSAP in a particular carrier's area. Then, it is determined whether GSM location information is reported in a timely manner (e.g., within one or two seconds) before committing to a default selection of a particular PSAP based on information such as the location of a serving cell site.

However, Appellant respectfully submits that Rhodes fails to disclose or suggest all the limitations of claim 21. For example, Rhodes fails to disclose or suggest, at least, "a call establisher configured to...determine a first estimate of a position of said user's equipment within said radio coverage area...use a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected...determine a second, more accurate, position estimate," as recited in claim 21. Accordingly, Appellant respectfully submits that claim 21 is not anticipated by Rhodes under 35 U.S.C. § 102(e) because Rhodes fails to disclose or suggest at least these limitations.

The Office Action took the position that the routing processes disclosed in Rhodes anticipates the foregoing limitations, in addition to the other limitations recited in claim 21.

However, a review of Rhodes' routing process clearly indicates that this is not the case. Indeed, the routing process of Rhodes does not, and could not, account for the limitations of claim 21.

For example, in paragraphs [0057]-[0059] and Figure 10, Rhodes discloses a routing process where a call may be routed based upon the reception of a SubLocRep location estimate, a cell identity, or a default PSAP. In particular, when the system receives an IAM message of an E911 call, the system initiates a timer (statistically pre-configured timer interval). If a SubLocRep location estimate is not received before the expiration of the time, then the system routes the call to a PSAP assigned to the cell identity of the cell serving the caller. However, if the SubLocRep location estimate is received before the timer expires, then the call is routed to a PSAP corresponding to the SubLocRep location estimate. In an alternative scenario where the system has neither the cell identity nor a location estimate, then the call is routed to a default PSAP.

Accordingly, Rhodes fails to disclose or suggest the features associated with "first position estimate" and "second, more accurate, position estimate" as recited in claim 22. As discussed above, Rhodes discloses that if a SubLocRep location estimate is not received then the call is routed based on a cell identity or a default PSAP. Consequently, if the SubLocRep location estimate is said to correspond to the claimed "second, more accurate, position estimate," then Rhodes fails to disclose or suggest, at least, the claimed "first position estimate" because a cell identity and a default PSAP are not location estimates of

“said user’s equipment” as recited in the claim. Additionally, if the SubLocRep location estimate is said to correspond to the claimed “first position estimate” as recited in claim 21, then Rhodes fails to disclose or suggest, at least, the claimed “second, more accurate, position estimate” because a cell identity and a default PSAP are not location estimates of “said user’s equipment,” nor are they “more accurate” than the disclosed SubLocRep location.

Moreover, even if the cell site identity of Rhodes were somehow construed to be a position estimate, which it most certainly is not, Rhodes would still fail to disclose or suggest the claimed “first position estimate,” as recited in claim 21. The “first position estimate” is “a position of said user’s equipment within said radio coverage area,” as recited in claim 21. Consequently, the cell site identity of Rhodes is not comparable to the “first position estimate” because a cell site identity is known to merely identify a cell without regard to a estimated location of a device “within” the coverage area of the cell. Additionally, in paragraph [0058], Rhodes discloses that when a call is routed based on the identity of the cell, the call is routed to “the PSAP assigned to the cell site.” Consequently, when the Rhodes routing system routes a call to a PSAP based on the identity of a cell, the Rhodes routing system does not, and could not, use the cell identity to select “which one of said at least two answering points the call is to be established with,” as recited in claim 21. Instead, as discussed above, Rhodes merely routes the call to the PSAP that is “assigned to the cell site.” Therefore, Rhodes fails to disclose the “first position estimate” that is recited

in claim 21.

In light of the above, it is clear the Rhodes fails to disclose or suggest, all the limitations of claim 21. For example, Rhodes fails to disclose or suggest “a call establisher configured to...determine a first estimate of a position of said user’s equipment within said radio coverage area...use a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected...determine a second, more accurate, position estimate,” as recited in claim 21. As such, Appellant respectfully submits that claim 21 is not anticipated by Rhodes under 35 U.S.C. § 102(e) because Rhodes fails to disclose or suggest all the limitations of claim 21. Therefore, it is respectfully requested that this rejection be reversed and this claim allowed.

5. Claim 22

Claim 22 is directed to a system that comprises a base controller configured to control a base transceiver that provides a radio coverage area, and a switching centre configured to receive an emergency call request, a location centre configured to determine a first estimate of the position of a user’s equipment within a coverage area. The system also comprises a control point configured to select which of at least two answering points the call is established with based on said first position estimate. When a call establishment is interrupted, and, when at least one answering point has been selected, the switching centre is configured to resume said call establishment, and a second, more accurate,

position estimate is determined and sent to the at least one answering point.

Appellant respectfully submits that claim 22 recites subject matter that is neither disclose nor suggested by Rhodes.

Rhodes discloses public safety access point (PSAP) selection for Enhanced 911 (E911) wireless callers in a global system for mobile communications (GSM) type system.

In Rhodes, public safety access points are selected in a wireless network for E911 calls based on emergency services routing digit (ESRD) substitution when emergency service routing keys (ESRK) are not being used. Initially, ESRKs, ESRDs, or emergency service routing values (ESRV) are obtained and managed for each PSAP in a particular carrier's area. Then, it is determined whether GSM location information is reported in a timely manner (e.g., within one or two seconds) before committing to a default selection of a particular PSAP based on information such as the location of a serving cell site.

However, Appellant respectfully submits that Rhodes fails to disclose or suggest all the limitations of claim 22. For example, Rhodes fails to disclose or suggest, at least, "a location centre configured to determine a first estimate of the position of a user's equipment within a coverage area; and a control point configured to select which of at least two answering points the call is established with based on said first position estimate, wherein...when at least one answering point has been selected...a second, more accurate, position estimate is determined," as recited in claim 22. Accordingly, Appellant respectfully submits that claim 22 is not anticipated by Rhodes under 35 U.S.C. § 102(e)

because Rhodes fails to disclose or suggest at least these limitations.

The Office Action took the position that the routing processes disclosed in Rhodes anticipates the foregoing limitations, in addition to the other limitations recited in claim 22. However, a review of Rhodes' routing process clearly indicates that this is not the case. Indeed, the routing process of Rhodes does not, and could not, account for the limitations of claim 22.

For example, in paragraphs [0057]-[0059] and Figure 10, Rhodes discloses a routing process where a call may be routed based upon the reception of a SubLocRep location estimate, a cell identity, or a default PSAP. In particular, when the system receives an IAM message of an E911 call, the system initiates a timer (statistically pre-configured timer interval). If a SubLocRep location estimate is not received before the expiration of the time, then the system routes the call to a PSAP assigned to the cell identity of the cell serving the caller. However, if the SubLocRep location estimate is received before the timer expires, then the call is routed to a PSAP corresponding to the SubLocRep location estimate. In an alternative scenario where the system has neither the cell identity nor a location estimate, then the call is routed to a default PSAP.

Accordingly, Rhodes fails to disclose or suggest the features corresponding to the "first position estimate" and "second, more accurate, position estimate," as recited in claim 22. As discussed above, Rhodes discloses that if a SubLocRep location estimate is not received then the call is routed based on a cell identity or a default PSAP. Consequently, if

the SubLocRep location estimate is said to correspond to the “second, more accurate, position estimate” recited in claim 22, then Rhodes fails to disclose or suggest, at least, the claimed “first position estimate” because a cell identity and a default PSAP are not location estimates of “said user’s equipment” as recited in the claim. Additionally, if the SubLocRep location estimate is said to correspond to the claimed “first position estimate” recited in claim 22, then Rhodes fails to disclose or suggest, at least, the claimed “second, more accurate, position estimate” because a cell identity and a default PSAP are not location estimates of “said user’s equipment,” nor are they “more accurate” than the disclosed SubLocRep location.

Moreover, even if the cell site identity of Rhodes were somehow construed to be a position estimate, which it most certainly is not, Rhodes would still fail to disclose or suggest the claimed “first position estimate,” as recited in claim 22. The “first position estimate” is “a position of said user’s equipment within said radio coverage area,” as recited in claim 22. Consequently, the cell site identity of Rhodes is not comparable to the “first position estimate” because a cell site identity is known to merely identify a cell without regard to a estimated location of a device “within” the coverage area of the cell. Additionally, in paragraph [0058], Rhodes discloses that when a call is routed based on the identity of the cell, the call is routed to “the PSAP assigned to the cell site.” Consequently, when the Rhodes routing system routes a call to a PSAP based on the identity of a cell, the Rhodes routing system does not, and could not, use the cell identity to select “which one of

said at least two answering points the call is to be established with,” as recited in claim 22.

Instead, as discussed above, Rhodes merely routes the call to the PSAP that is “assigned to the cell site.” Therefore, Rhodes fails to disclose the “first position estimate” that is recited in the rejected claim.

In light of the above, it is clear the Rhodes fails to disclose or suggest, all the limitations of claim 22. For example, Rhodes fails to disclose or suggest “a location centre configured to determine a first estimate of the position of a user’s equipment within a coverage area; and a control point configured to select which of at least two answering points the call is established with based on said first position estimate, wherein...when at least one answering point has been selected...a second, more accurate, position estimate is determined,” as recited in claim 22. As such, Appellant respectfully submits that claim 22 is not anticipated by Rhodes under 35 U.S.C. § 102 (e). Therefore, it is respectfully requested that this rejection be reversed and this claim allowed.

6. Claim 31

Claim 31 is dependent upon claim 21, and recites additional limitations. Thus, claim 31 is patentable at least for the reasons claim 21 is patentable, and further, because it recites additional limitations. Accordingly, it is respectfully requested that this rejection be reversed and this claim allowed.

7. Claim 32

Claim 32 is dependent upon claim 21, and recites additional limitations. Thus, claim

32 is patentable at least for the reasons claim 21 is patentable, and further, because it recites additional limitations. Accordingly, it is respectfully requested that this rejection be reversed and this claim allowed.

8. Claim 34

Claim 34 is directed to an apparatus that comprises establishing means for establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call. The establishing means comprises means for receiving an emergency call request, means for determining a first estimate of a position of said user's equipment within said radio coverage area, and means for interrupting a call establishment of the emergency call. The establishing means also comprises means for using a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and, when at least one answering point has been selected, means for resuming said call establishment, means for determining a second, more accurate, position estimate, and means for sending the second position estimate to the selected answering point.

Appellant respectfully submits that claim 34 recites subject matter that is neither disclose nor suggested by Rhodes.

Rhodes discloses public safety access point (PSAP) selection for Enhanced 911 (E911) wireless callers in a global system for mobile communications (GSM) type system. In Rhodes, public safety access points are selected in a wireless network for E911 calls

based on emergency services routing digit (ESRD) substitution when emergency service routing keys (ESRK) are not being used. Initially, ESRKs, ESRDs, or emergency service routing values (ESRV) are obtained and managed for each PSAP in a particular carrier's area. Then, it is determined whether GSM location information is reported in a timely manner (e.g., within one or two seconds) before committing to a default selection of a particular PSAP based on information such as the location of a serving cell site.

However, Appellant respectfully submits that Rhodes fails to disclose or suggest all the limitations of claim 34. For example, Rhodes fails to disclose or suggest, at least, "means for determining a first estimate of a position of said user's equipment within said radio coverage area...means for using a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and...when at least one answering point has been selected...means for determining a second, more accurate, position estimate," as recited in claim 34. Accordingly, Appellant respectfully submits that claim 34 is not anticipated by Rhodes under 35 U.S.C. § 102(e) because Rhodes fails to disclose or suggest at least these limitations.

The Office Action took the position that the routing processes disclosed in Rhodes anticipates the foregoing limitations, in addition to the other limitations recited in claim 34. However, a review of Rhodes' routing process clearly indicates that this is not the case. Indeed, the routing process of Rhodes does not, and could not, account for the limitations of claim 34.

For example, in paragraphs [0057]-[0059] and Figure 10, Rhodes discloses a routing process where a call may be routed based upon the reception of a SubLocRep location estimate, a cell identity, or a default PSAP. In particular, when the system receives an IAM message of an E911 call, the system initiates a timer (statistically pre-configured timer interval). If a SubLocRep location estimate is not received before the expiration of the time, then the system routes the call to a PSAP assigned to the cell identity of the cell serving the caller. However, if the SubLocRep location estimate is received before the timer expires, then the call is routed to a PSAP corresponding to the SubLocRep location estimate. In an alternative scenario where the system has neither the cell identity nor a location estimate, then the call is routed to a default PSAP.

Accordingly, Rhodes fails to disclose or suggest the “first position estimate” and “second, more accurate, position estimate,” as recited in claim 34. As discussed above, Rhodes discloses that if a SubLocRep location estimate is not received then the call is routed based on a cell identity or a default PSAP. Consequently, if the SubLocRep location estimate is said to correspond to the claimed “second, more accurate, position estimate,” then Rhodes fails to disclose or suggest, at least, the “first position estimate” recited in claim 34, because a cell identity and a default PSAP are not location estimates of “said user’s equipment” as recited in claim 34. Additionally, if the SubLocRep location estimate is said to correspond to the claimed “first position estimate” as recited in claim 34, then Rhodes fails to disclose or suggest, at least, the “second, more accurate, position estimate,”

as recited in claim 34, because a cell identity and a default PSAP are not location estimates of “said user’s equipment,” nor are they “more accurate” than the disclosed SubLocRep location.

Moreover, even if the cell site identity of Rhodes were somehow construed to be a position estimate, which it most certainly is not, Rhodes would still fail to disclose or suggest the claimed “first position estimate,” as recited in claim 34. The “first position estimate” is claimed as being “a position of said user’s equipment within said radio coverage area,” as recited in claim 34. Consequently, the cell site identity of Rhodes is not comparable to the “first position estimate” because a cell site identity is known to merely identify a cell without regard to a estimated location of a device “within” the coverage area of the cell. Additionally, in paragraph [0058], Rhodes discloses that when a call is routed based on the identity of the cell, the call is routed to “the PSAP assigned to the cell site.” Consequently, when the Rhodes routing system routes a call to a PSAP based on the identity of a cell, the Rhodes routing system does not, and could not, use the cell identity to select “which one of said at least two answering points the call is to be established with,” as recited in claim 34. Instead, as discussed above, Rhodes merely routes the call to the PSAP that is “assigned to the cell site.” Therefore, Rhodes fails to disclose the “first position estimate” that is recited in the rejected claim.

In light of the above, it is clear the Rhodes fails to disclose or suggest, all the limitations of claim 34. For example, Rhodes fails to disclose or suggest “means for

determining a first estimate of a position of said user's equipment within said radio coverage area...means for using a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and...when at least one answering point has been selected...means for determining a second, more accurate, position estimate," as recited in claim 34. As such, Appellant respectfully submits that claim 34 is not anticipated by Rhodes under 35 U.S.C. § 102(e). Therefore, it is respectfully requested that this rejection be reversed and this claim allowed.

9. Claim 35

Claim 35 is directed to a computer program embodied on a computer-readable medium and configured to control a processor to perform operations that comprise establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call. The establishing comprises receiving an emergency call request, determining a first estimate of a position of said user's equipment within said radio coverage area, and interrupting a call establishment of the emergency call. Additionally, the establishing comprises using the control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected, resuming said call establishment, determining a second, more accurate, position estimate, and sending the second position estimate to the selected answering point.

Appellant respectfully submits that claim 35 recites subject matter that is neither disclose nor suggested by Rhodes.

Rhodes discloses public safety access point (PSAP) selection for Enhanced 911 (E911) wireless callers in a global system for mobile communications (GSM) type system.

In Rhodes, public safety access points are selected in a wireless network for E911 calls based on emergency services routing digit (ESRD) substitution when emergency service routing keys (ESRK) are not being used. Initially, ESRKs, ESRDs, or emergency service routing values (ESRV) are obtained and managed for each PSAP in a particular carrier's area. Then, it is determined whether GSM location information is reported in a timely manner (e.g., within one or two seconds) before committing to a default selection of a particular PSAP based on information such as the location of a serving cell site.

However, Appellant respectfully submits that Rhodes fails to disclose or suggest all the limitations of claim 35. For example, Rhodes fails to disclose or suggest, at least, "determining a first estimate of a position of said user's equipment within said radio coverage area...using the control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected...determining a second, more accurate, position estimate," as recited in claim 35. Accordingly, Appellant respectfully submits that claim 35 is not anticipated by Rhodes under 35 U.S.C. § 102(e) because Rhodes fails to disclose or suggest at least these limitations.

The Office Action took the position that the routing processes disclosed in Rhodes anticipates the foregoing limitations, in addition to the other limitations recited in claim 35. However, a review of Rhodes' routing process clearly indicates that this is not the case. Indeed, the routing process of Rhodes does not, and could not, account for the limitations of claim 35.

For example, in paragraphs [0057]-[0059] and Figure 10, Rhodes discloses a routing process where a call may be routed based upon the reception of a SubLocRep location estimate, a cell identity, or a default PSAP. In particular, when the system receives an IAM message of an E911 call, the system initiates a timer (statistically pre-configured timer interval). If a SubLocRep location estimate is not received before the expiration of the time, then the system routes the call to a PSAP assigned to the cell identity of the cell serving the caller. However, if the SubLocRep location estimate is received before the timer expires, then the call is routed to a PSAP corresponding to the SubLocRep location estimate. In an alternative scenario where the system has neither the cell identity nor a location estimate, then the call is routed to a default PSAP.

Accordingly, Rhodes fails to disclose or suggest the claimed "first position estimate" and "second, more accurate, position estimate," as recited in claim 35. As discussed above, Rhodes discloses that if a SubLocRep location estimate is not received then the call is routed based on a cell identity or a default PSAP. Consequently, if the SubLocRep location estimate is said to correspond to the claimed "second, more accurate,

position estimate,” as recited in claim 35, then Rhodes fails to disclose or suggest, at least, the claimed “first position estimate” because a cell identity and a default PSAP are not location estimates of “said user’s equipment” as recited in the claim. Additionally, if the SubLocRep location estimate is said to correspond to the claimed “first position estimate,” as recited in claim 35, then Rhodes fails to disclose or suggest, at least, the claimed “second, more accurate, position estimate” because a cell identity and a default PSAP are not location estimates of “said user’s equipment,” nor are they “more accurate” than the disclosed SubLocRep location.

Moreover, even if the cell site identity of Rhodes were somehow construed to be a position estimate, which it most certainly is not, Rhodes would still fail to disclose or suggest the “first position estimate,” as recited in claim 35. The “first position estimate” is claimed as being “a position of said user’s equipment within said radio coverage area.” Consequently, the cell site identity of Rhodes is not comparable to the “first position estimate,” as recited in claim 35 because a cell site identity is known to merely identify a cell without regard to a estimated location of a device “within” the coverage area of the cell.

Additionally, in paragraph [0058], Rhodes discloses that when a call is routed based on the identity of the cell, the call is routed to “the PSAP assigned to the cell site.” Consequently, when the Rhodes routing system routes a call to a PSAP based on the identity of a cell, the Rhodes routing system does not, and could not, use the cell identity to select “which one of said at least two answering points the call is to be established with,” as recited in claim 35.

Instead, as discussed above, Rhodes merely routes the call to the PSAP that is “assigned to the cell site.” Therefore, Rhodes fails to disclose the “first position estimate” that is recited in the rejected claim.

In light of the above, it is clear the Rhodes fails to disclose or suggest, all the limitations of claim 35. For example, Rhodes fails to disclose or suggest “determining a first estimate of a position of said user’s equipment within said radio coverage area...using the control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected...determining a second, more accurate, position estimate,” as recited in claim 35. As such, Appellant respectfully submits that claim 35 is not anticipated by Rhodes under 35 U.S.C. § 102(e). Therefore, it is respectfully requested that this rejection be reversed and this claim allowed.

B. Claims 20 and 33 are non-obvious in view of Rhodes and Maanoja

Claims 20 and 33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Rhodes, in view of U.S. Patent Publication No. 2004/0259566 A1 (filed Aug. 28, 2002) (“Maanoja”). The Office Action took the position that Rhodes does not specifically disclose that the first position estimate is determined by using an identifier of said radio coverage area and timing advance information. However, the Office Action also took the position that these limitations are disclosed by Maanoja in a manner that renders the rejected claims obvious to one of ordinary skill in the art at the time the application was

filed. Appellant respectfully submits that this rejection is clearly erroneous and should be reversed. Appellant respectfully submits that claims 20 and 33 are not obvious under 35 U.S.C. § 103(a). Therefore, it is respectfully requested that this rejection be reversed and claims 20 and 33 be allowed.

As discussed above, Rhodes discloses public safety access point (PSAP) selection for Enhanced 911 (E911) wireless callers in a global system for mobile communications (GSM) type system. In Rhodes, public safety access points are selected in a wireless network for E911 calls based on emergency services routing digit (ESRD) substitution when emergency service routing keys (ESRK) are not being used. Initially, ESRKs, ESRDs, or emergency service routing values (ESRV) are obtained and managed for each PSAP in a particular carrier's area. Then, it is determined whether GSM location information is reported in a timely manner (e.g., within one or two seconds) before committing to a default selection of a particular PSAP based on information such as the location of a serving cell site.

Maanoja discloses location services. In Maanoja, method for calculating the location of a mobile user terminal in a wireless communication system includes identifying a default sequence in which a plurality of location calculating methods should be executed, forming a new sequence by reordering a default sequence responsive to at least one system parameter, and executing at least one of the calculating methods in accordance with the new sequence to thereby calculate the location.

Appellant respectfully submits that claims 20 and 33 are not obvious under 35 U.S.C. § 103(a) for at least the reason that a combination of Rhodes and Maanoja fails to disclose or suggest all the limitations of the rejected claims.

1. Claim 20

Claim 20 is dependent upon claim 17, and recites additional limitations. As discussed above, Rhodes fails to disclose or suggest all the limitations of claim 17. In addition, Maanoja does not cure the deficiencies of Rhodes because Maanoja also fails to disclose or suggest “determining a first estimate of a position of said user’s equipment within said radio coverage area...using a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected...determining a second, more accurate, position estimate,” as recited in claim 17.

Thus, the combination of Rhodes and Maanoja does not disclose or suggest all the limitations of claim 17. Furthermore, claim 20 is patentable at least for the reasons claim 17 is patentable, and further, because it recites additional limitations. Accordingly, it is respectfully requested that this rejection be reversed and this claim allowed.

2. Claim 33

Claim 33 is dependent from claim 21, and recites additional limitations. As discussed above, Rhodes fails to disclose or suggest all the limitations of claim 17. In addition, Maanoja does not cure the deficiencies of Rhodes because Maanoja also fails to

disclose or suggest “a call establisher configured to...determine a first estimate of a position of said user’s equipment within said radio coverage area...use a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected...determine a second, more accurate, position estimate,” as recited in claim 21.

Thus, the combination of Rhodes and Maanoja does not disclose or suggest all the limitations of claim 21. Furthermore, claim 33 is patentable at least for the reasons claim 17 is patentable, and further, because it recites additional limitations. Accordingly, it is respectfully requested that this rejection be reversed and this claim allowed.

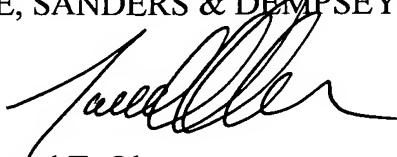
For all of the above noted reasons, it is strongly contended that certain clear differences exist between the present invention as claimed in claims 17-22 and 31-35 and the prior art relied upon by the Examiner. It is further contended that these differences are more than sufficient that the present invention would not have been anticipated or obvious to a person having ordinary skill in the art at the time the invention was made.

As this final rejection is clearly in error, it is respectfully requested that this honorable Board of Patent Appeals and Interferences reverse the Examiner's decision in this case and indicate the allowability of claims 17-22 and 31-35.

In the event that this paper is not being timely filed, the Appellant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees which may be due with respect to this paper may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

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Encls: Appendix 1 - Claims on Appeal
Appendix 2 - Evidence
Appendix 3 - Related Proceedings

APPENDIX 1

CLAIMS ON APPEAL

1-16. (Cancelled)

17. (Previously Presented) A method, comprising:

establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call, the establishing comprising,

receiving an emergency call request,

determining a first estimate of a position of said user's equipment within said radio coverage area,

interrupting a call establishment of the emergency call,

using a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and

when at least one answering point has been selected, resuming said call establishment, determining a second, more accurate, position estimate, and sending the second position estimate to the selected answering point.

18. (Previously Presented) The method according to claim 17, wherein non-call

associated signalling is used wherein messages used to select the at least one of the two answering points during call establishment are separate from messages used for the established call.

19. (Previously Presented) The method according to claim 17, wherein said selecting is done using the control point to translate the first position estimate, which is a geographical position into a routing number of the selected answering point.

20. (Previously Presented) The method according to claim 17, wherein the first position estimate is determined by using an identifier of said radio coverage area and timing advance information.

21. (Previously Presented) An apparatus, comprising:

- a call establisher configured to establish an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call, wherein the call establisher is configured to,
 - receive an emergency call request,
 - determine a first estimate of a position of said user's equipment within said radio coverage area,
 - interrupt a call establishment of the emergency call,

use a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and

when at least one answering point has been selected, resume said call establishment, determine a second, more accurate, position estimate, and send the second position estimate to the selected answering point.

22. (Previously Presented) A system, comprising:

a base controller configured to control a base transceiver that provides a radio coverage area;

a switching centre configured to receive an emergency call request;

a location centre configured to determine a first estimate of the position of a user's equipment within a coverage area; and

a control point configured to select which of at least two answering points the call is established with based on said first position estimate,

wherein said call establishment is interrupted, and, when at least one answering point has been selected, said switching centre is configured to resume said call establishment, and a second, more accurate, position estimate is determined and sent to the at least one answering point.

23-30. (Cancelled)

31. (Previously Presented) The apparatus according to claim 21, wherein the call establishment unit is configured to use non-call associated signalling wherein messages used to select the at least one of the two answering points during call establishment are separate from messages used for the established call.

32. (Previously Presented) The apparatus according to claim 21, wherein selection of an answering point comprises use of the control point to translate the first position estimate, which is a geographical position into a routing number of the selected answering point.

33. (Previously Presented) The apparatus according to claim 21, wherein the first position estimate is determined by using an identifier of said radio coverage area and timing advance information.

34. (Previously Presented) An apparatus, comprising:

- establishing means for establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call, wherein the establishing means comprises,
- means for receiving an emergency call request,
- means for determining a first estimate of a position of said user's equipment within

said radio coverage area,

means for interrupting a call establishment of the emergency call,

means for using a control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and when at least one answering point has been selected, means for resuming said call establishment, means for determining a second, more accurate, position estimate, and means for sending the second position estimate to the selected answering point.

35. (Previously Presented) A computer program embodied on a computer-readable medium, the computer program configured to control a processor to perform operations comprising:

establishing an emergency call between a user's equipment within a radio coverage area and one of at least two points having functionality to answer the call, the establishing comprising,

receiving an emergency call request,

determining a first estimate of a position of said user's equipment within said radio coverage area,

interrupting a call establishment of the emergency call,

using the control point to select, based on said first position estimate, which one of said at least two answering points the call is to be established with, and

when at least one answering point has been selected, resuming said call establishment, determining a second, more accurate, position estimate, and sending the second position estimate to the selected answering point.

APPENDIX 2

EVIDENCE APPENDIX

No evidence under section 37 C.F.R. 1.130, 1.131, or 1.132 has been entered or will be relied upon by Appellant in this appeal.

APPENDIX 3

RELATED PROCEEDINGS APPENDIX

No decisions of the Board or of any court have been identified under 37 C.F.R. §41.37(c)(1)(ii).